

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA UPHOLDING THE REVOCATION OF CONDITIONAL USE PERMIT PA- 99-09 FOR THE SANDPIPER MOTEL TO RENT UP TO 40% OF ITS ROOMS TO LONG-TERM TENANTS

WHEREAS, on March 8, 1999, the Planning Commission of the City of Costa Mesa approved Conditional Use Permit PA-99-09 under Resolution No. PC-99-17 to extend the compliance period for PA-98-44, which allowed 40 percent of the total rooms at the Sandpiper Motel, located at 1967 and 1977 Newport Boulevard, to be dedicated to long-term occupancy; and

WHEREAS, on April 14, 2014, a duly noticed public hearing on the revocation of CUP PA-99-09 was held before the Planning Commission, which included a staff report, presentation of evidence by staff wherein the applicant and applicant's counsel were allowed to cross-examine members of the City staff and provide oral arguments to the Planning Commission. In addition, public comments both in favor of and opposed to revocation were received by the Planning Commission; and

WHEREAS, the Planning Commission, by a 5-0 vote, revoked PA-99-09 by a separate resolution; and

WHEREAS, on April 18, 2014, an appeal of the Planning Commission's decision was filed by the motel owner; and

WHEREAS, a duly noticed public hearing was held by the City Council on May 20, 2014, with all persons having the opportunity to speak and be heard for and against the proposal.

WHEREAS, based upon its review and due consideration of all materials presented to it, the City Council makes the following findings regarding the revocation of PA-99-09.

NOW THEREFORE, the City Council of the City of Costa Mesa finds and resolves as follows:

- A. The Costa Mesa Development Services Department has identified the following Conditions of Approval that have been violated by the Sandpiper Motel during the period from January 2012 through January 2014, inclusive:
 - 1. Condition of approval number 7 provides that "Twenty-four hour management shall be provided. The manager shall ensure compliance with all applicable conditions of approval and code requirements."

- a. The findings articulated under subsections (A)(2), (A)(3) and (A)(4) below are incorporated herein by reference, and justify revocation under this condition. The number and severity of the violations found, and the operation of the motel as a public nuisance, demonstrate that the management of the motel did not ensure compliance with all applicable conditions of approval and code requirements.
2. Condition of approval number 12 further provides that "the conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances."
- a. The Sandpiper Motel has been operated in violation of applicable laws and ordinances. To wit:
 - i. On May 8, 2013, an inspection of the Sandpiper Motel was conducted by the Orange County Health Department, the Costa Mesa Fire Department, the Costa Mesa Building Department and the Costa Mesa Code Enforcement Division. 8 rooms were inspected.
 - ii. On May 8, 2013 the following violations were found in rooms 106, 113, 119, 123, 126, 129, 139 and 140, as well as the laundry room:
 - a. Unpermitted construction. 2010 California Building Code ("CBC") § 105.1; former CMMC § 20-4(b).
 - b. Severe hoarding conditions. 2007 International Property Management Code §§ ("IPMC") 307.1, 308.1; Health & Safety Code § 17920.3; 1997 Uniform Housing Code ("UHC") §§ 1001.2, 1001.9, 1001.11.
 - c. Unsanitary conditions. UHC § 1001.2.
 - d. Vermin. UHC § 1001.2(12); former CMMC § 20-7(r).
 - e. Peeling paint. IPMC § 305.3; former § CMMC 20-7(e).
 - f. Mildew. UHC § 1001.2(11).
 - g. Missing or damaged window screens. Former CMMC § 20-7(i); IPMC § 304.14.
 - h. Improperly installed water heater. 2010 California Plumbing Code ("CPC") §§ 1.8.4.1, 503.0.

- i. Damaged windows. Former CMMC § 20-6(g).
 - j. Graffiti. Former CMMC § 20-6(e).
 - k. Damaged fixtures. IPMC § 305.3; former CMMC § 20-7(e).
 - l. Missing smoke detectors. IPMC § 704.1.
 - m. Damaged walls and door knobs. UHC § 1001.2(13); IPMC § 304.15.
- b. Unpermitted construction was brought into compliance by June 14, 2013. All other violations, other than the conditions in room 139, were corrected by May 31, 2013.
- c. Severe hoarding conditions continued in room 139 for several months. The violations were fully corrected by November 15, 2013. Reinspections were conducted on May 30, June 7, August 9, August 27, September 20, October 16 and November 15, 2013.
- d. While the violations were eventually corrected, it is unclear how long they were allowed to stand, and were only corrected due to the City's enforcement action, which required two inspections by the City on May 8 and May 10, 2013, and repeated reinspections over a period of several months. The Sandpiper should be operating in compliance with the law at all times, not only when the City catches the violations and forces the motel to comply. Despite the corrections, therefore, the Sandpiper Motel operated for a period of several months, maybe longer, in violation of applicable law.
- e. The Sandpiper's annual inspection followed on November 1, 2013. City found an additional 21 violations in 16 rooms that had not been previously inspected in May 2013, as follows
 - i. Peeling paint. IPMC § 305.3; CMMC § 20-6(d) (former CMMC § 20-7(e)).
 - ii. Vermin infestation. UHC § 1001.2(12); CMMC §§ 20-6(q), 20-12(r)(1) (former CMMC § 20-7(r)).
 - iii. Damaged walls (holes). UHC § 1001.2(13); IPMC § 305.3.
 - iv. Missing light bulbs. UHC § 1001.2(13).
 - v. Broken/missing window screens. CMMC § 20-6(h) (former CMMC § 20-7(i)); IPMC § 304.14.

vi. Mildew. UHC § 1001.2(11).

- f. While the code violations found during the November 1, 2013 inspection were also corrected, compliance followed inspection and enforcement by the City. The Sandpiper Motel should have been correcting violations as they occurred, and not waiting to be told by the City to do so.
3. Condition of operation number 9 provides that "[m]onthly inspections of the long-term occupancy units shall be conducted by the on-site manager to ensure that ... no maintenance problems have developed."
- a. It is reasonable to infer that monthly inspections have not occurred at the property, based on the severe hoarding conditions of room 139, the unpermitted construction, and the multiple and repeatedly deteriorated conditions of windows, doors, etc. found during the inspection of May 8, 2013.
 - b. It is further reasonable to infer that monthly inspections were not conducted during the period between the May 8, 2013 and November 1, 2013 inspections, based on the additional violations found at the property.
4. The property has been operated as a public nuisance, pursuant to Section 13-29 of the Costa Mesa Municipal Code and Sections 3479 and 3480 of the Civil Code. Namely, the following conditions are found to be injurious to health, indecent or offensive to the senses, or constitute obstructions to the free use of property, so as to interfere with the comfortable enjoyment of life or property:
- a. Severe hoarding conditions, which constitute a fire hazard, as emergency workers, in the event of a fire, cannot enter the affected room to look for victims based on the lack of clearance. The conditions also may constitute a fire hazard depending on the flammability of the materials being hoarded. Such conditions further constitute a health hazard, due to the accumulation of garbage and debris, and constitute ideal conditions for vermin infestation. While the conditions were limited to one unit, the effects of such conditions are not. Vermin do not remain confined to one room, nor would a fire. Finally, such conditions caused noxious odors based on the accumulation of garbage.
 - b. Missing or broken smoke detectors constitute a condition that is injurious to health as an undetected fire can spread quickly and cause damage, injury and possibly death to the occupants of the room as well as other occupants.

- c. Vermin carry disease and can contaminate food and drink. Vermin infestations are injurious to health and constitute obstructions to the free use of property, and interfere with the comfortable enjoyment of life and property.
- B. The cost for the above inspections and re-inspections has been borne by the City with taxpayer funds.
- C. Under the totality of the circumstances above, there is substantial evidence that the Sandpiper Motel used less than 25% of its rooms for extended occupancies for a period exceeding 180 days, and that the CUP has thus expired by operation of its own terms.
- D. Under the totality of the circumstances above, there is substantial evidence that the Sandpiper Motel has been operated by its management in disregard for the health, safety and general welfare of the neighborhood, its patrons and the people of the City of Costa Mesa, as well as in violation of law.
- E. The current and past operation of the Sandpiper Motel constitutes a public nuisance and is detrimental to the public health or safety so as to constitute a public nuisance.
- F. This revocation hearing of Conditional Use Permit PA-99-09 is deemed Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 (Class 21), Enforcement Actions of Regulatory Agencies.
- G. Chapter IX, Article 12, Transportation Demand Management, of Title 13 of the Costa Mesa Municipal Code does not apply to this revocation hearing.

The City Clerk shall attest to the adoption of this resolution and shall forward a copy to the applicant, and any person requesting the same.

BE IT RESOLVED, therefore, that based on the evidence in the record and the findings contained in this resolution, the City Council hereby denies the appeal and upholds the Planning Commission's revocation of Conditional Use Permit PA-99-09 with respect to the property described above.

PASSED AND ADOPTED this 20TH day of May, 2014.

JIM RIGHEIMER
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

CITY CLERK OF THE
CITY OF COSTA MESA

CITY ATTORNEY

STATE OF CALIFORNIA))ss
COUNTY OF ORANGE)

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution Number 14___ as considered at a regular meeting of said City Council held on the 20th day of May, 2014, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 20th day of May, 2014, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the
City of Costa Mesa this ____ day of _____, 2014